

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Joseph Hennessy	Team: Squad #12	CCRB Case #: 202000753	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/28/2020 9:55 PM, Tuesday, 01/28/2020 10:25 PM	Location of Incident: § 87(2)(b) 44th Precinct stationhouse	Precinct: 44	18 Mo. SOL 7/28/2021	EO SOL 3/14/2022	
Date/Time CV Reported Wed, 01/29/2020 10:45 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/29/2020 10:45 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			044 PCT
2. POM Anthony Perlmutter	25052	962683	044 PCT
3. SGT Michael Bowman	00818	939932	044 PCT
4. POM Gregory Piro	23344	962696	044 DET
5. POM George Layng	15804	966663	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Gustavo Ochoa	12454	953189	044 PCT
2. POM Kenny Victoria	21225	960051	044 PCT
3. SGT Felix Acosta	04308	939841	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Michael Bowman	Abuse: At § 87(2)(b) in the Bronx, Sergeant Michael Bowman stopped § 87(2)(b)	§ 87(2)(b)
B.SGT Michael Bowman	Abuse: At § 87(2)(b) in the Bronx, Sergeant Michael Bowman stopped an individual.	§ 87(2)(b)
C.POM Anthony Perlmutter	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter frisked § 87(2)(b)	§ 87(2)(b)
D.POM Anthony Perlmutter	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter searched § 87(2)(b)	§ 87(2)(b)
E.SGT Michael Bowman	Abuse: At § 87(2)(b) in the Bronx, Sergeant Michael Bowman frisked an individual.	§ 87(2)(b)
F.POM Anthony Perlmutter	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter searched the vehicle in which § 87(2)(b) and an individual were occupants.	§ 87(2)(b)
G.POM Anthony Perlmutter	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter damaged § 87(2)(b)'s property.	§ 87(2)(b)
H.POM Anthony Perlmutter	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
I.SGT Michael Bowman	Abuse: At § 87(2)(b) in the Bronx, Sergeant Michael Bowman failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
J.POM Gregory Piro	Abuse: At § 87(2)(b) in the Bronx, Police Officer Gregory Piro failed to provide § 87(2)(b) with a business card.	
K.POM Anthony Perlmutter	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter failed to provide an individual with a business card.	
L.SGT Michael Bowman	Abuse: At § 87(2)(b) in the Bronx, Sergeant Michael Bowman failed to provide an individual with a business card.	
M.POM Gregory Piro	Abuse: At § 87(2)(b) in the Bronx, Police Officer Gregory Piro failed to provide an individual with a business card.	
N. An officer	Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)	
O. An officer	Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke discourteously to an individual.	
P.POM George Layng	Abuse: Police Officer George Layng did not process § 87(2)(b)'s complaint regarding officers.	

## Case Summary

On January 29, 2020, § 87(2)(b) called the CCRB and filed this complaint over the phone via the call-processing system.

On January 28, 2020, at 9:55 p.m., § 87(2)(b) and an unidentified passenger were parked next to a fire hydrant outside § 87(2)(b) in the Bronx. An unmarked police vehicle driven by PO Anthony Perlmutter and occupied by Sgt. Michael Bowman and PO Gregory Piro, all of the 44<sup>th</sup> Precinct, stopped near § 87(2)(b)'s vehicle (**Allegation A: Abuse of Authority**, § 87(2)(g)). The officers approached § 87(2)(b)'s vehicle and asked § 87(2)(b) and the unidentified victim to exit (**Allegation B: Abuse of Authority**, § 87(2)(g)). PO Perlmutter frisked and searched § 87(2)(b) (**Allegation C: Abuse of Authority**, § 87(2)(g)). (**Allegation D: Abuse of Authority**, § 87(2)(g)). Sgt. Bowman frisked the unidentified victim (**Allegation E: Abuse of Authority**, § 87(2)(g)). PO Perlmutter then searched § 87(2)(b)'s vehicle (**Allegation F: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) stated that the armrest in his vehicle was damaged as a result of the search (**Allegation G: Abuse of Authority**, § 87(2)(g)). When the officers left, they did not provide business cards to either § 87(2)(b) or his passenger (**Allegations H-M: Abuse of Authority**, § 87(2)(g)). An officer spoke discourteously to § 87(2)(b) and the unidentified victim (**Allegation N: Discourtesy**, § 87(2)(g)). (**Allegation O: Discourtesy**, § 87(2)(g)). The officers did not arrest § 87(2)(b) or issue him any summonses.

§ 87(2)(b) then traveled to the 44<sup>th</sup> Precinct stationhouse, where he attempted to file a complaint about the stop. PO George Layng of the 44<sup>th</sup> Precinct, who spoke with § 87(2)(b) did not generate a civilian complaint for § 87(2)(b) (**Allegation P: Abuse of Authority**, § 87(2)(g)).

The investigation obtained body-worn camera footage (BR13 and BR 25, summarized BR14) and stationhouse footage from the 44<sup>th</sup> Precinct (BR8-9, summarized BR10, BR12).

## Findings and Recommendations

**Allegation (A) Abuse of Authority: At § 87(2)(b) in the Bronx, Sergeant Michael Bowman stopped § 87(2)(b)**

§ 87(2)(b) stated that at approximately 9:50 p.m., he parked his vehicle at § 87(2)(b) in the Bronx, immediately abutting a fire hydrant, and remained inside the vehicle. § 87(2)(b) stated that his vehicle was turned off. Present in his vehicle was a male passenger that § 87(2)(b) refused to identify. Five minutes after he parked, officers stopped their vehicle next to his vehicle and approached it while he was parked (BR01). The officers did not issue a summons to § 87(2)(b).

PO Perlmutter's BWC footage (BR13, summarized in BR 14) shows that § 87(2)(b)'s vehicle is parked in front of a fire hydrant. The footage shows that as PO Perlmutter approaches the vehicle, the headlights of § 87(2)(b)'s vehicle are on. § 87(2)(b) is depicted inside the vehicle in the driver's seat at the time the officers approach the vehicle. The dials on the dashboard of the vehicle are illuminated. At 0min29sec, as PO Perlmutter's approaches the driver's seat of § 87(2)(b)'s vehicle, the front windshield is depicted without any tints. When PO Perlmutter stands at the driver's seat, § 87(2)(b)'s window is completely down and not visible. At 0min59sec in the recording, § 87(2)(b) asked the officers why they were stopping him, and an officer responded that he was being stopped "for being on the hydrant." At 8min00sec, the officers tell § 87(2)(b) that he was getting "a break" for the marijuana and the hydrant.

Sgt. Bowman's BWC footage (BR25; summarized in BR29) depicts his approach to the front passenger side of § 87(2)(b)'s vehicle. From approximately 0m24sec to 0min27sec in the recording, the front passenger side window where the unidentified victim is seated is depicted. The window appears to be darkly tinted.

In his statement to the CCRB (BR03), Sgt. Bowman affirmed that he was the supervisor of an Anti-Crime team that included PO Perlmutter and PO Piro. The officers observed that § 87(2)(b)'s vehicle was parked at a fire hydrant and decided to approach the vehicle. Sgt. Bowman made no statements indicating that the vehicle was idling. Sgt. Bowman did not cite any other reason for the decision to stop § 87(2)(b). Sgt. Bowman affirmed that § 87(2)(b) and the unidentified victim were in the vehicle. The officers did not conduct any database checks prior to conducting the stop. At the conclusion of the interaction, the officers did not issue a summons to § 87(2)(b). Sgt. Bowman stated that he made the decision to not issue a summons to § 87(2)(b) and noted that officers have discretionary powers over when to issue summonses.

In his statement to the CCRB, PO Perlmutter stated that he did not recall the reason for the stop (BR02).

In his statement to the CCRB, PO Piro stated that § 87(2)(b) was stopped because his vehicle was idling at a fire hydrant and because his vehicle had tinted windows (BR04). PO Piro's Memo Book also contains notations regarding § 87(2)(b)'s vehicle idling at a fire hydrant and "tinted windows" (BR28).

New York State Vehicle and Traffic Law 1202 subsection b(1) states, "No person shall stop, stand or park a vehicle within fifteen feet of a fire hydrant except when such vehicle is attended by a licensed operator or chauffeur who is seated in the front seat and who can immediately move such vehicle in case of emergency, unless a different distance is indicated by official signs, markings or parking meters" (BR22).

New York State Vehicle and Traffic Law Section 375 (12-b) notes the following: No person shall operate any motor vehicle upon any public highway, road or street:

- (1) the front windshield of which is composed of, covered by or treated with any material which has a light transmittance of less than seventy percent unless such materials are limited to the uppermost six inches of the windshield; or
- (2) the sidewings or side windows of which on either side forward of or adjacent to the operator's seat are composed of, covered by or treated with any material which has a light transmittance of less than seventy percent (BR30).

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

**Allegation (B) Abuse of Authority: At § 87(2)(b) in the Bronx, Sergeant Michael Bowman stopped an individual.**

**Allegation (C) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter frisked § 87(2)(b)**

**Allegation (D) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter searched § 87(2)(b)**

In his statement to the CCRB (BR01), § 87(2)(b) reported that when the officers approached his vehicle, PO Perlmutter requested his license. After § 87(2)(b) provided his license, PO Perlmutter said that he smelled marijuana. § 87(2)(b) told the CCRB that he had not smoked marijuana in his vehicle prior to the incident, he did not smoke in his vehicle at all, that he did not possess marijuana at the time of the incident, and that his vehicle did not smell like marijuana. § 87(2)(b) responded to the accusation by telling PO Perlmutter that he was tired of the police harassing him, and that he did not want to exit his vehicle. Officers directed § 87(2)(b) and the unidentified victim to exit § 87(2)(b)'s vehicle. After arguing for approximately one minute, § 87(2)(b) exited his vehicle. The unidentified victim was made to stand at the rear of § 87(2)(b)'s vehicle. When § 87(2)(b) exited his vehicle, PO Perlmutter patted down his body and reached into his pockets. No contraband was recovered as a result of the search.

In PO Perlmutter's BWC, PO Perlmutter is depicted asking § 87(2)(b) to exit his vehicle at 1min36sec in the recording. § 87(2)(b) refuses and asks to know why he is being asked to exit. At 1min54sec, PO Perlmutter informs § 87(2)(b) that he is going to search his vehicle for marijuana. At 1min56sec, § 87(2)(b) replies, "That's not a problem," and adds either: "Y'all don't know the law?" or "You think I don't know the law?" At 2min02sec, § 87(2)(b) said that he does not smoke marijuana. At 2min19sec, PO Perlmutter pats the outside of § 87(2)(b)'s left sweatpants pocket, then pats the legs of § 87(2)(b)'s sweatpants. At 2min23sec, PO Perlmutter's camera moves so that his hands are no longer visible; it is not depicted whether he places his hands into any of § 87(2)(b)'s pockets. At 2min33sec, the unidentified victim is removed from the vehicle.

In his statement to the CCRB, PO Perlmutter stated that after he smelled the marijuana, he asked § 87(2)(b) to exit his vehicle. PO Perlmutter did not recall if he requested § 87(2)(b)'s license or registration before requesting § 87(2)(b) step out of the vehicle. PO Perlmutter asked § 87(2)(b) two or three times to get out of the vehicle. PO Perlmutter did not recall what § 87(2)(b) wore as he stepped out of the vehicle. PO Perlmutter patted down § 87(2)(b)'s body as soon as § 87(2)(b) fully exited the vehicle. PO Perlmutter conducted a pat-down of the exterior of § 87(2)(b)'s clothing, which he referred to as a "frisk," because PO Perlmutter was concerned for his own safety and believed that § 87(2)(b) may be in possession of a firearm. PO Perlmutter also noted that he was

concerned for his safety because of § 87(2)(b)'s initial refusal to exit the vehicle. PO Perlmutter stated that § 87(2)(b) was known to the 44<sup>th</sup> Precinct through intelligence and previous arrests as an individual who had “dealt” with and was possibly “dealing” firearms. PO Perlmutter was made aware of § 87(2)(b)'s criminal history when he joined the 44<sup>th</sup> Precinct in 2017 via communications with other officers, intelligence briefings, and arrests. He noted that he had once transported § 87(2)(b) to Central Booking after an arrest. PO Perlmutter did not know if he reached into any pockets or compartments on § 87(2)(b)'s clothing. There were no bulges on § 87(2)(b)'s clothing.

Sgt. Bowman testified that he heard PO Perlmutter tell § 87(2)(b) that the vehicle smelled like marijuana and ask § 87(2)(b) to exit the vehicle. Sgt. Bowman could not initially smell marijuana from where he stood on the passenger side of the vehicle. However, after the passenger door to the vehicle opened, Sgt. Bowman smelled the odor of burnt marijuana. Sgt. Bowman noted that he has been trained on identifying the smell of marijuana (BR03).

PO Piro testified that he did not recall if he smelled marijuana (BR04).

§ 87(2)(b)  
[REDACTED]

In People v. Chestnut, 43 AD.2d260, the court held that “the smell of marijuana smoke, with nothing more, can be sufficient to provide police officers with probable cause to search an automobile and its occupants” (BR20).

NYPD Patrol Guide Procedure 212-11 states that officers are permitted to stop individuals when they have reasonable suspicion that an individual has committed, is committing, or is about to commit a felony or Penal Law misdemeanor (BR24).

In People v Thomas, 115 A.D.3d 69 (BR26), the court held that “officers' knowledge of [defendant's] prior criminality in the same neighborhood was not sufficient to give rise to reasonable suspicion justifying a level three intrusion as to [defendant].”

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

**Allegation (E) Abuse of Authority: At § 87(2)(b) in the Bronx, Sergeant Michael Bowman frisked § 87(2)(b)**

In his statement to the CCRB, Sgt. Bowman stated that when the unidentified victim exited § 87(2)(b)'s vehicle, he frisked the unidentified victim. He stated that he conducted the frisk due to the odor of marijuana.

§ 87(2)(g)

**Allegation (F) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter searched the vehicle in which § 87(2)(b) and an individual were occupants.**

It is undisputed that PO Perlmutter searched § 87(2)(b)'s vehicle.

§ 87(2)(b) testified that after PO Perlmutter frisked him, he was made to stand at the rear of his vehicle. As he stood at the rear of the vehicle near the unidentified victim, PO Piro repeatedly told them to look away from § 87(2)(b)'s vehicle. § 87(2)(b) however, repeatedly turned around. When he did so, he saw PO Perlmutter open the hood of his vehicle. PO Perlmutter searched the rear driver and passenger seats of the vehicle. PO Perlmutter then conducted a search of the vehicle (BR01).

In his statement to the CCRB (BR02), PO Perlmutter affirmed that he conducted a search of § 87(2)(b)'s vehicle. During this search, he searched the seats, under the seats, the console, the glovebox, the trunk, and under the hood. PO Perlmutter did not recall if there were bags or other items inside § 87(2)(b)'s vehicle, and did not recall if he searched other items inside the vehicle. PO Perlmutter did not recall how long the search took. PO Perlmutter did not recall if he recovered any contraband

from § 87(2)(b)'s vehicle. When asked why he searched the vehicle, PO Perlmutter stated that the reason was "just the smell of marijuana."

§ 87(2)(g)

§ 87(2)(g)

As described above, People v. Chestnut states that officers may search a vehicle when they detect the odor of marijuana emanating from the vehicle.

§ 87(2)(g)

**Allegation (G) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter damaged § 87(2)(b)'s property.**

§ 87(2)(b) testified that after he returned to his vehicle, he observed that the front armrest of the driver's side seat was damaged, broken off of its hinge. § 87(2)(b) claimed this damaged was not pre-existing and believed it was the result of PO Perlmutter's search (BR01).

As stated above, PO Perlmutter testified that he searched § 87(2)(b)'s vehicle. PO Perlmutter described where he searched inside the vehicle, but he did not state whether he took any action to damage anything inside § 87(2)(b)'s vehicle (BR02).

PO Perlmutter's BWC captures the entirety of the search of the interior of § 87(2)(b)'s vehicle. This footage does not depict PO Perlmutter taking any action to damage any part of § 87(2)(b)'s vehicle (BR13, summarized BR 14).

§ 87(2)(g)

**Allegation (H) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter failed to provide § 87(2)(b) with a business card.**

**Allegation (I) Abuse of Authority: At § 87(2)(b) in the Bronx, Sergeant Michael Bowman failed to provide § 87(2)(b) with a business card.**

**Allegation (J) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Gregory Piro failed to provide § 87(2)(b) with a business card.**

**Allegation (K) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Anthony Perlmutter failed to provide an individual with a business card.**

**Allegation (L) Abuse of Authority: At § 87(2)(b) in the Bronx, Sergeant Michael Bowman failed to provide an individual with a business card.**

**Allegation (M) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Gregory Piro failed to provide an individual with a business card.**



BWC from PO Perlmutter does not depict any individual requesting business cards, or any officer providing business cards, to either civilian (BR13, summarized BR14).

PO Perlmutter testified that he did not provide a business card to either § 87(2)(b) or the unidentified victim. He affirmed that he was aware that he was required to provide his business card to them, but did not do so because he “forgot.”

PO Piro testified that he did not provide a business card to either § 87(2)(b) or the unidentified civilian. He did not recall if he had business cards on his person on the date of the incident. PO Piro believed the driver refused to accept a business card from PO Perlmutter, and no one requested a business card from him. PO Piro stated that he did not observe Sgt. Bowman or PO Perlmutter provide a business card to either § 87(2)(b) or the unidentified victim. (BR04).

Sgt. Bowman did not testify to whether he provided business cards to § 87(2)(b) or the unidentified victim.

The BWC does not depict that any of the officers offered a business card to § 87(2)(b) or the unidentified victim. PO Piro stated that he did not offer a business card to § 87(2)(b) or the unidentified victim, nor did he see any other officer offer their business card. Neither Sgt. Bowman nor PO Perlmutter stated that they offered their business card to the stopped civilians. The investigation therefore determined that the officers did not offer their business cards to either civilian on scene.

Patrol Guide Procedure 203-09 states that officers must provide business cards when they conduct a stop, when they conduct a frisk, and when they conduct a search of persons and property including vehicles (BR17).

§ 87(2)(g)  
[REDACTED]

**Allegation (N) Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)**  
**Allegation (O) Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke discourteously to an individual.**

§ 87(2)(b) testified that after the officers returned to their vehicle, from inside their vehicle before they drove away, § 87(2)(b) heard multiple voices state, “Suck a dick” and “Fuck you.” § 87(2)(b) responded, “You suck a dick, fuck you, too.” § 87(2)(b) could not tell which officers made the statements, because the windows on the officers’ vehicle were almost completely rolled up and were darkly tinted.

PO Perlmutter’s BWC depicts § 87(2)(b) returning to his vehicle at 7min00sec in the recording. The recording ends before the officers return to their vehicle. Sgt Bowman's BWC depicts § 87(2)(b)

§ 87(2)(b) returning to his vehicle at 7m15s of the recording. The recording ends before the officers return to their vehicle. Officer Piro's BWC depicts § 87(2)(b) returning to his vehicle at 7m17s of the recording. The recording ends before the officers return to their vehicle.

After PO Perlmutter completed searching § 87(2)(b)'s vehicle, he did not recall how the interaction ended specifically. PO Perlmutter did not recall making the statement, "Fuck you," or, "Suck my dick," to § 87(2)(b) and did not recall using any profanity towards § 87(2)(b). PO Perlmutter did not recall other officers in his vehicle making these statements (BR02).

PO Piro testified that he did not say, "Fuck you," or "Suck a dick," to either civilian, and did not hear either PO Perlmutter or Sgt. Bowman make either statement (BR04).

Sgt. Bowman stated that he did not say, "Suck a dick," or "Fuck you," to any civilian on scene, and further stated that he did not hear any of the other officers make this statement (BR03).

§ 87(2)(g)  
[REDACTED]

**Allegation (P) Abuse of Authority: Police Officer George Layng did not process § 87(2)(b)'s complaint regarding officers.**

§ 87(2)(b) reported that after his interaction with Sgt. Bowman, PO Perlmutter, and PO Piro, § 87(2)(b) drove to the 44<sup>th</sup> Precinct stationhouse and arrived between 10:22 p.m. and 10:25 p.m. He observed multiple police officers walking around in the stationhouse, and two officers by a desk. An officer he described as a uniformed Hispanic male, 5'11" to 6'0" in height with an average build, in his early 40s with slicked back hair, was standing at the desk behind the entrance gate. An officer he described as a bald white male in his late 40s who was dressed in uniform "with stripes," was seated next to the Hispanic officer. § 87(2)(b) approached the desk area and asked the Hispanic officer, "Where do I go about making a complaint?" The Hispanic officer asked § 87(2)(b) who he wanted to complain about, and § 87(2)(b) told the Hispanic officer that he wanted to complain about police officers. The Hispanic officer briefly whispered to the white officer; § 87(2)(b) did not hear what they said. The Hispanic officer then pointed to a sign with the CCRB's telephone number on it. The Hispanic officer did not offer § 87(2)(b) a complaint form. The Hispanic officer did not offer to fill out a complaint for § 87(2)(b). The Hispanic officer did not offer § 87(2)(b) a complaint form and did not offer to fill out a complaint form for § 87(2)(b).

The investigation obtained stationhouse video footage from the 44<sup>th</sup> Precinct stationhouse (BR08, summarized BR10). This footage does not contain audio. The footage shows § 87(2)(b) entering the stationhouse at 8m06s into the video. He stands at a gate. At approximately 8m30s into the video, § 87(2)(b)'s lips are moving, giving the appearance that he is speaking. At 9m23s, an officer identified by the investigation as PO George Layng walks and stands in front of § 87(2)(b). PO Layng points at something on a nearby wall. § 87(2)(b) and PO Layng appear to exchange words. PO Layng points at the wall an additional three times. At 10m27s, § 87(2)(b) leaves the stationhouse. Sgt. Acosta is not depicted in the video footage.

PO Layng was interviewed at the CCRB on September 23, 2021 (BR27). PO Layng confirmed that he was the officer depicted at 9m23s of the stationhouse footage. PO Layng stated that in the footage he was pointing at a wall which possibly has CCRB information on it. PO Layng stated that

based on the stationhouse footage it appeared that he had a conversation with § 87(2)(b) PO Layng did not recall what the conversation was about. PO Layng did not remember if § 87(2)(b) asked him to file a complaint regarding a police officer. It is PO Layng's understanding that, if a civilian asks an officer to file a complaint at a precinct stationhouse regarding police misconduct, he would be required to tell them that they would have to make a complaint with the Civilian Complaint Review Board. Officer Layng did not know of anything else that he would be required to do under those circumstances.

Sgt. Acosta, a 42-year-old Hispanic male, testified to the CCRB that he was the desk sergeant on the night of January 28, 2020. He did not recall interacting with § 87(2)(b) in the stationhouse, or if § 87(2)(b) requested to file a complaint inside the stationhouse. He stated that as the desk sergeant, it was his responsibility to process civilian complaints. Processing civilian complaints, by Sgt. Acosta's description, involves offering a civilian a complaint form, offering to complete the form for the civilian, and interviewing the civilian regarding the situation. He stated that he could not hear conversations that took place at the gate that was approximately 20 feet from where his desk was. Upon being shown the stationhouse surveillance footage (BR08), he did not recognize § 87(2)(b) or the officer with whom he spoke, nor did he independently recollect any additional information. (BR15).

Patrol Guide Procedure 207-31 states that when a civilian complaint is made in person, the officer receiving the complaint is to interview the complainant, give the complainant of the complaint form, and furnish assistance or allow other people to assist in preparing the form (BR19).

§ 87(2)(g)

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Perlmutter has been a member-of-service for four years and has been a subject in five CCRB complaints and 14 allegations, none of which have been substantiated. § 87(2)(g)
- Sgt. Bowman has been a member-of-service for 15 years and has been a subject in 10 CCRB complaints and 20 allegations.
  - CCRB 201808753 involved substantiated allegations of Abuse of Authority. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A.

- § 87(2)(g) [REDACTED]
- PO Piro has been a member-of-service for four years and has been a subject in seven CCRB complaints and 20 allegations.
  - CCRB 201808686 involved two substantiated allegations of discourtesy. The Board recommended command instructions and the NYPD imposed command instructions.
  - CCRB 201808753 involved two substantiated allegations of discourtesy. The Board recommended command instructions and the NYPD imposed command instructions.
- § 87(2)(g) [REDACTED]
- Sgt. Acosta has been a member-of-service for 15 years and has been a subject in four CCRB complaints and seven allegations.
  - CCRB 201014101 involved a substantiated allegation of force. The Board recommended charges and the NYPD did not impose discipline.
  - § 87(2)(g) [REDACTED]

### Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] rejected mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
- On September 2, 2021, a FOIL request was submitted to the NYC Office of the Comptroller for all notices of claim regarding this case. The results of this request will be added to the case file upon their receipt.

Squad No.: 12

Investigator: <u>Joseph Hennessy</u>	Investigator <u>Joseph Hennessy</u>	<u>10/07/2021</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Carlmais Johnson</u>	IM <u>Carlmais Johnson</u>	<u>December 8, 2021</u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date